

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2020

CORAM

THE HON'BLE MR.JUSTICE D. KRISHNAKUMAR

C.R.P.(PD) No.813 of 2019
and C.M.P.No.5337 of 2019

1. Rajeswari
 2. Palaniyammal
- ... Petitioners/Defendants 2 & 3

Vs.

Dineshwaran ... Respondent/Plaintiff

Prayer: The Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decretal order dated 2.01.2019 in I.A.No.732 of 2018 in O.S.No.123 of 2008 on the file of the Principal District Munsif, Tiruchengode.

For Petitioners : Mr.K.Ponmani

For Respondent : Mr.Naveen Kumar Murthi

O R D E R

The respondent has filed a suit in O.S.No.123 of 2008 on the file of Principal District Munsif, Tiruchengode for declaration and permanent injunction. Written statement has been filed by the petitioners/defendants in the suit in the year 2008. The petitioners/defendants have filed an application under Order VIII Rule 1A (3) and Sec.151 of C.P.C. to condone the delay in filing the documents by stating the reason that the petitioners/defendants have filed additional written statement wherein the details of the criminal case in S.C.No.42 of 2017 have been furnished and also filed xerox copies of the documents. Thereafter, the petitioner has secured the certified copies of documents from the counsel at Chennai and therefore, there is a delay in filing the documents. The petitioners/defendants have also furnished description of the documents also in the petition. Based on the counter affidavit filed by the respondent wherein it is stated that the aforesaid

document is not relevant to determine the issue in the aforesaid suit. The Court below accepting the said contention of the respondent dismissed the application. Challenging the dismissal order of the Court below, the petitioners have filed the present Civil revision petition before this Court.

2 According to the learned counsel appearing for the petitioners, the petitioners have also filed additional written statement before the Court below in the aforesaid suit. As already stated in the additional written statement, the details of the pendency of criminal case in S.C.No.42 of 2017 have been furnished. Therefore, the present application has been filed to receive the certified copies of the said documents and no prejudice would be caused to the respondent in allowing the application.

3. The learned counsel appearing for the respondent/plaintiff would submit that the petitioners ought to have submitted the application on 12.9.2017 along with additional written statement. The application has been filed after a lapse of several months. Therefore, the present application is not maintainable for the delay of more than one year. Therefore, there is no warrant to interfere with the order of the Court below.

4. Heard the learned counsel appearing for the petitioner, learned counsel appearing for the respondents and perused the materials available on record.

5. On perusal of the order passed by the Court below rejecting the application of the petitioners by stating a reason that the petitioners ought to have filed the said document at the time of commencement of trial. In the suit, the evidence of the plaintiff's side was concluded and posted for recording evidence on the side of the defendants. At this stage, the present application has been filed belatedly. Therefore, the application has been rejected on the ground of inordinate delay in filing the said application.

6. Considering the fact that the petitioners have filed additional written statement on 12.9.2017. In the written statement, it is specifically stated the particulars of the pendency of criminal case in S.C.No.42 of 2017. According to the petitioners, at the time of filing additional written statement, xerox copy of the documents have been filed. Now, the petitioner obtained certified copies of the said documents. Therefore, it is necessary to file the certified copies of the documents and no prejudice would be caused to the respondent/plaintiff in marking the said documents. If the respondent/ plaintiff is having any objection in marking the

said documents, it is open to the respondent to make objection at the time of marking the said documents and the same shall be decided at the time of arguments in the suit. Therefore, there is force in the contention of the learned counsel appearing for the petitioners/defendants. Therefore, accepting the contention of the learned counsel appearing for the petitioners, the impugned order passed in I.A.No.732 of 2018 in O.S.No.123 of 2008 is unsustainable and the same is liable to be set aside.

7. In fine, the impugned order passed by the Court below in I.A.No.732 of 2018 in O.S.No.123 of 2008 is set aside. Application in I.A.No.732 of 2018 is allowed. The trial Court is directed to record objection of the respondent if any. Further, the suit is of the year 2008, the trial Court is directed to dispose of the suit as expeditiously as possible, preferably within a period of four months from the date of receipt of copy of the order. Both parties shall cooperate with the trial Court for disposal of the suit.

8. The Civil Revision petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vaan

To

The Principal District Munsif, Tiruchengode.

+1cc to M/s.Zeenath Begum, Advocate, Sr.No.19573

+1cc to M/s.S.Varsha, Advocate, Sr.No.19689

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RSV(CO)
GS(30/05/2020)